

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

YOHAN WEBB,

Plaintiff,

vs.

MIKE STREETER, et al.,

Defendants.

4:21CV3058

**MEMORANDUM
AND ORDER**

On November 24, 2021, Defendant Andrew Lighthall filed a motion (Filing 65) requesting that he be granted an extension of time, until January 3, 2022, to amend the answer he filed pro se on November 16, 2021 (Filing 62, designated as “Response in Denial of Plaintiff’s Amended Complaint and Request to Dismiss All Claims Against Defendant Lighthall”).

The Federal Rules of Civil Procedure permit a party to amend its pleading as a matter of course within 21 days after serving it, *see* Fed. R. Civ. P. 15(a)(1)(A), but Lighthall, who is now represented by the Nebraska Attorney General, desires to file an amended pleading in coordination with other Defendants, who have until January 3, 2022, to respond to Plaintiff’s Amended Complaint. (See Filing 64.) The court finds there is good cause for the extension of time, and concludes it should be granted. *See* Fed. R. Civ. P. 6(b)(1)(A); *see also* Fed. R. Civ. P. 15(a)(2) (“The court should freely give leave [to amend] when justice so requires.”).

The Clerk of the Court has docketed Filing 62 as a motion to dismiss, but upon review the court finds it should, in fact, be treated as an answer, which may include any of the defenses listed in Rule 12(b). *See* Fed. R. Civ. P. 12(b). The Clerk of Court therefore will be directed to “term” Filing 62 as a motion. This means that the court will not make any ruling on Filing 62, and that Plaintiff should not respond to Filing 62 unless the court subsequently orders a reply under Rule 7(a)(7).

Accordingly,

IT IS ORDERED:

1. Defendant Andrew Lighthall's "Motion for Leave to Amend Answer" (Filing 65) is granted, as follows: Defendant Lighthall shall have until January 3, 2022, to file an amended answer.
2. Defendant Lighthall's "Response in Denial of Plaintiff's Amended Complaint and Request to Dismiss All Claims" (Filing 62) shall be treated as an answer filed pursuant to Rule 7(a)(2), and not as a motion filed pursuant to Rule 12(b).
3. The Clerk of Court is directed to "term" Filing 62 as a motion.

Dated this 30th day of November 2021.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge